

Message Text

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APPROVED BY P - JJSISCO

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L/OES - MR. BETTAUER

ERDA - MR. SIEVERING (SUBS.)

NSC - DR. ELLIOTT S/S:FVORTIZ

OES - MR.KRATZER

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FM SECSTATE WASHDC

TO AMEMBASSY CAIRO IMMEDIATE

INFO AMEMBASSY TEL AVIV PRIORITY

USMISSION IAEA VIENNA

S E C R E T STATE 253185

E.O. 11652: GDS

TAGS:TECH, EG

SUBJECT: NUCLEAR POWER AGREEMENT

REF: CAIRO 9195, 9157, 4260, A-72; STATE 121617; VIENNA 5258

1. THIS MESSAGE FORWARDS THE RESPONSE OF THE UNITED
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STATES TO THE FOURTH EGYPTIAN NOTE TRANSMITTED VIA
CAIRO'S A-72 AND THE DR. EFFAT LETTER FORWARDED IN
CAIRO'S 9195. IT ALSO TAKES INTO ACCOUNT EFFAT'S CON-
VERSATIONS WITH KRATZER AND HELFRICH AS REPORTED IN

VIENNA'S 5258. WE ARE FORWARDING THIS MATERIAL IN HOPE THE GOEWILL FIND IT USEFUL IN CONJUNCTION WITH THE PROPOSED NEXT ROUND OF TECHNICAL TALKS THAT WE PROPOSE TO HOLD IN WASHINGTON ON THIS SUBJECT.

2. THE PROPOSED U.S. RESPONSE TO THE FOURTH EGYPTIAN NOTE IS AS FOLLOWS:

BEGIN TEXT:

"RESPONSE OF THE UNITED STATES TO THE FOURTH NOTE OF THE GOVERNMENT OF EGYPT CONCERNING PROPOSED NUCLEAR AGREEMENT.

THE UNITED STATES IS PLEASED TO RESPOND TO THE FOURTH EGYPTIAN NOTE CONCERNING THE PROPOSED US-EGYPTIAN AGREEMENT FOR COOPERATION. OUR DETAILED COMMENTS ARE KEYED TO THE SPECIFIC PROPOSED AMENDMENTS AND COMMENTS BY THE EGYPTIAN SIDE AS SET OUT IN THAT COMMUNICATION.

3. CONSIDERATIONS RELATING TO ACCOMPANYING NOTE - POINT L, (PAGE 2 OF GOE NOTE): THE UNITED STATES IS PLEASED TO EXPRESS ONCE AGAIN ITS APPRECIATION FOR THE AFFIRMATIVE ATTITUDE TAKEN BY THE GOVERNMENT OF THE ARAB REPUBLIC TOWARD THE GENERAL PRINCIPLE OF NON-PROLIFERATION AS SET FORTH IN THE THIRD PARAGRAPH OF THE PROPOSED NOTE TO ACCOMPANY THE AGREEMENT FOR COOPERATION. WE HAVE NOTED THE CAVEAT THAT YOU HAVE INDICATED RELATING TO EGYPTIAN ACCEPTANCE OF THIS POSITION. AS YOU APPRECIATE THIS ASPECT OF THE PROPOSED ACCORD HAS BEEN THE SUBJECT OF SEPARATE POLITICAL DISCUSSIONS BETWEEN OUR GOVERNMENTS.

4. WE SHOULD ALSO LIKE TO DRAW YOUR ATTENTION TO AN ADDITIONAL CONSIDERATION THAT PERTAINS TO THE PRINCIPLE IN THE THIRD PARAGRAPH OF OUR DRAFT NOTE. THAT PARAGRAPH PROVIDES THAT ANY NUCLEAR FACILITIES AND MATERIALS 'WHICH MAY BE TRANSFERRED TO EGYPT FROM AN EXTERNAL SOURCE' AND SECRET

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ANY MATERIAL PRODUCED THEREFROM OR THEREIN WILL BE SUBJECT TO INTERNATIONAL SAFEGUARDS. OUR POINT PERTAINS TO THE QUESTION OF THE USE OF U.S. NUCLEAR TECHNOLOGY AND WHEN A FACILITY CAN REASONABLY BE CONSTRUED AS HAVING BEEN CONSTRUCTED THROUGH EXTERNAL ASSISTANCE. AS YOU MAY KNOW, SINCE OUR NEGOTIATIONS WERE FIRST INAUGURATED THERE HAS BEEN AN EVOLUTION OF POLICY ON THE PART OF SEVERAL COUNTRIES IN SUPPORT OF THE CONCEPT THAT THE PROVISION OF SIGNIFICANT FORMS OF TECHNOLOGICAL ASSISTANCE, IN VARIOUS FIELDS, INCLUDING REACTORS, REPRESENTS A LEGITIMATE OASIS FOR TRIGGERING THE APPLICATION OF SAFEGUARDS ON THE ASSISTED FACILITY AND ITS PRODUCTS. THE CONCEPT HERE IS THAT THE TRANSFER OF TECHNOLOGY CAN BE AS SIGNIFICANT AS

THE TRANSFER OF HARDWARE IN ESTABLISHING A FACILITY. MOREOVER, THERE HAS BEEN A GROWING VIEW THAT, UNLESS SERIOUS GAPS IN SAFEGUARDS COVERAGE ARE TO OCCUR, SECOND GENERATION FACILITIES REPLICATED FROM FIRST GENERATION TRANSFERRED FACILITIES SHOULD BE SAFEGUARDED. SOME ILLUSTRATIONS OF THIS GENERAL APPROACH MAY BE FOUND IN THE TEXT OF THE RECENT BRAZILIAN-FRG NUCLEAR ACCORD AS WELL AS IN THE TRILATERAL, FRENCH, REPUBLIC OF KOREA, AND IAEA SAFEGUARDS AGREEMENT THAT WAS RECENTLY APPROVED IN SEPTEMBER BY THE IAEA BOARD OF GOVERNORS.

THE UNITED STATES SUPPORTS THE VIEW THAT THE

TRANSFER OF TECHNOLOGY PER SE SHOULD BE A LEGITIMATE BASIS FOR APPLYING SAFEGUARDS AND WE BELIEVE THAT THIS CONCEPT SHOULD BE APPLIED NOT ONLY TO FUTURE US-EGYPTIAN RELATIONSHIPS BUT ALSO THE INTERPRETATION THAT BOTH GOVERNMENTS SHOULD APPLY TO THE FOREMENTIONED THIRD PRINCIPLE. WE ALSO WOULD EXPECT THIS APPROACH TO BE REFLECTED IN THE TRILATERAL SAFEGUARDS AGREEMENT THAT WE ULTIMATELY WOULD EXPECT TO CONCLUDE WITH EGYPT AND THE IAEA.

WE WOULD APPRECIATE RECEIVING CONFIRMATION FROM THE GOVERNMENT OF EGYPT THAT IT FINDS THIS APPROACH TO BE ACCEPTABLE. WE WOULD BE PLEASED TO DISCUSS THIS ASPECT WITH YOUR REPRESENTATIVES WHEN WE JOINTLY ENDEAVOR TO COMPLETE THE SUBSTANTIVE NEGOTIATIONS. THE APPROACH
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ULTIMATELY FORMULATED IN THIS REGARD WOULD, OF COURSE, BE EQUALLY APPLICABLE TO OUR PROPOSED ARRANGEMENTS WITH EGYPT AND ISRAEL.

5. POINT 2: WE HAVE NOTED FROM POINT TWO, THAT YOU DESIRE TO MODIFY THE TEXT OF THE FOURTH PARAGRAPH OF THE NOTE SO THAT THE U.S. WOULD NOW AGREE TO RETURN TO EGYPT PLUTONIUM PRODUCED IN POWER REACTORS SUPPLIED UNDER THE AGREEMENT, FOR FUEL ELEMENT FABRICATION AT SUCH TIME AS EGYPT MIGHT DECIDE TO RECYCLE PLUTONIUM. WE REGRET THAT WE ARE UNABLE TO AGREE TO THIS FORMULATION SINCE WE BELIEVE IT WOULD TEND TO PREJUDGE SEVERAL DECISIONS WHICH, IN OUR VIEW, NECESSARILY WOULD HAVE TO BE DEFERRED UNTIL A LATER TIME.

6. WE REFER HERE, FOR EXAMPLE, TO THE FACT THAT THERE WOULD HAVE TO BE MUTUAL AGREEMENT CONCERNING THE TRANSFER OF ANY PLUTONIUM FROM THE U.S. TO EGYPT AS WELL AS IN THE SELECTION OF THE FABRICATOR. WE BELIEVE THAT THE SPECIAL SAFEGUARD CONSIDERATIONS THAT PROMPTED THE ADOPTION OF THIS FORMULATION STILL PREVAILS AND THAT WE SHOULD CONTINUE TO ADHERE TO THE FOURTH PARAGRAPH OF THE PROPOSED

NOTE AS ORIGINALLY DRAFTED.

7. WE MIGHT NOTE IN CONNECTION WITH THIS PROVISION THAT THE U.S. GOVERNMENT HAS NOT BEEN, AND IS NOT NOW, AN INTERNATIONAL SUPPLIER OF PLUTONIUM, ESPECIALLY WITH RESPECT TO POWER REACTOR FUELING REQUIREMENTS; NOR, LOOKING TO THE FUTURE, IS THE U.S. GOVERNMENT IN A POSITION TO CONSIDER ASSURING THE SUPPLY OF PLUTONIUM FOR RECYCLING FROM PRIVATE U.S. SOURCES. CUSTOMERS FOR SUCH MATERIAL, INCLUDING U.S. DOMESTIC AS WELL AS FOREIGN CUSTOMERS ARE EXPECTED TO LOOK TO THE COMMERCIAL MARKET TO MEET REQUIREMENTS WHICH MAY ARISE.

8. IN MAKING THESE OBSERVATIONS, WE SHOULD LIKE TO STRESS, HOWEVER, THAT WE FULLY APPRECIATE THAT EGYPT ASCRIBES SOME IMPORTANCE OVER THE LONG-TERM TO ULTIMATELY HAVING THE ABILITY TO CONSIDER PLUTONIUM RECYCLING, GIVEN THE VALUE IT BELIEVES SUCH RECYCLING ULTIMATELY MIGHT HOLD FOR THE EFFICIENCY OF ITS NUCLEAR POWER PROGRAM.

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9. FINALLY, WE UNDERSTAND FROM RECENT CONVERSATIONS WITH DR. EFFAT, IN VIENNA, THAT THERE HAS BEEN SOME MISUNDERSTANDING CONCERNING THE SCOPE OF THE UNDERTAKING IN THE SECOND SENTENCE, FIFTH PARAGRAPH OF THE PROPOSED NOTE. AS YOU WILL RECALL, THAT PARAGRAPH STATES THAT ANY REPROCESSING OF IRRADIATED SPECIAL NUCLEAR MATERIAL SUBJECT TO ARTICLE VIII C OF THE AGREEMENT AND THE STORAGE OR FABRICATION OF THE RECOVERED SPECIAL NUCLEAR MATERIALS WILL TAKE PLACE IN FACILITIES OUTSIDE OF EGYPT. THIS PARAGRAPH WOULD NOT APPLY IN ANY WAY TO THE REPROCESSING OF MATERIAL RECEIVED BY EGYPT FROM OTHER SOURCES NOT SUBJECT TO ARTICLES X, XI OR XII OF THE AGREEMENT. IN OUR JUDGEMENT NO CHANGE IN THE TEXT IS NECESSARY TO MAKE THIS POINT MORE EXPLICIT.

10. POINT 3: THE US CONTINUES TO BE APPRECIATIVE OF THE INTEREST EXPRESSED BY THE EGYPTIAN SIDE IN ASSURING THAT THE NUCLEAR POWER FACILITY WHICH IS SUBJECT TO THE AGREEMENT IS RUN ON ECONOMIC AND EFFICIENT BASIS. WE MIGHT NOTE THAT OUR VIEWS IN THIS REGARD WERE REFLECTED, INTER ALIA, IN OUR RESPONSES TO THE FIRST AND THIRD EGYPTIAN NOTES.

11. POINT 4: (PHYSICAL SECURITY) - THE GOVERNMENT OF EGYPT WILL RECALL THAT THIS MATTER WAS DISCUSSED IN POINT THREE OF ITS SECOND NOTE AND IN THE U.S. RESPONSE TO THAT NOTE. THE U.S. RESPONSE, IN PARTICULAR, PROPOSED THAT ARTICLE VIII F BE REVISED TO READ AS FOLLOWS:

12. "AS USED IN THIS SUBPARAGRAPH 'EFFECTIVE PHYSICAL SECURITY' MEANS MEASURES TO ENSURE THAT NUCLEAR MATERIALS,

EQUIPMENT, AND DEVICES WILL BE PROTECTED FROM USES NOT AUTHORIZED BY THE GOVERNMENT OF EGYPT AND FROM THEFT OR SABOTAGE, WHICH MEASURES SHALL, IN THE OPINION OF BOTH PARTIES, BE SUFFICIENT TO PREVENT SUCH UNAUTHORIZED USE, THEFT OR SABOTAGE UNDER ANY CIRCUMSTANCES WHICH MAY REASONABLY BE FORESEEN. THE GOVERNMENT OF EGYPT GUARANTEES THAT EFFECTIVE PHYSICAL SECURITY WILL BE MAINTAINED WITH RESPECT TO ALL MATERIALS, EQUIPMENT AND DEVICES WHICH ARE SUBJECT TO ARTICLE X OF THIS AGREEMENT.

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THE AGREED MEASURES AND THEIR IMPLEMENTATION SHALL BE

REVIEWED BY THE PARTIES FROM TIME TO TIME, AND WHENEVER EITHER PARTY IS OF THE VIEW THAT A REVISION MAY BE REQUIRED TO MAINTAIN EFFECTIVE PHYSICAL SECURITY. IT IS RECOGNIZED BY THE PARTIES THAT CONTINUED COOPERATION UNDER THIS AGREEMENT IS PREDICATED UPON THE MAINTENANCE BY THE GOVERNMENT OF EGYPT OF EFFECTIVE PHYSICAL SECURITY;

13. WE ASSUME THIS PARAGRAPH IS ACCEPTABLE IN PRINCIPLE TO THE GOVERNMENT OF EGYPT AND ON THAT ASSUMPTION WE WOULD BE PLEASED TO SEE THE LAST SENTENCE IN PARAGRAPH SIX OF THE NOTE REVISED AS FOLLOWS:

14. "IT IS UNDERSTOOD THAT SUCH AGREED UPON SYSTEMS AND MEASURES WILL FORM THE BASIS FOR THE FULFILLMENT OF THE OBJECTIVES OF PHYSICAL SECURITY AND PROTECTION OF ARTICLES VIII AND XI."

15. THE UNITED STATES ALSO PROPOSES AN ADDITIONAL SENTENCE, READING AS FOLLOWS TO BE ADDED TO THIS PARAGRAPH OF THE NOTE: "THE UNITED STATES IS PREPARED TO DISCUSS SPECIFIC MEANS, SUCH AS PERSONNEL TRAINING, FOR MEETING THE OBJECTIVES OF THE PARTIES." WE WOULD WELCOME RECEIVING YOUR REACTIONS TO THESE PROPOSALS.

16. WITH RESPECT TO THE NEW LANGUAGE FOR ARTICLE VIII, PARAGRAPH F, WE NOW SUGGEST THAT THE BEGINNING BE MODIFIED AS FOLLOWS: "AS USED IN THIS PARAGRAPH, 'MEASURES FOR THE SECURITY' MEANS MEASURES TO ENSURE . . ." ON FURTHER REFLECTION, AND TAKING INTO ACCOUNT THE PROVISIONS OF PARAGRAPH C OF ARTICLE XI, WE WOULD BE AGREEABLE TO DELETION OF THE LAST SENTENCE IN THIS TEXT.

17. POINT 5: (PARITY OF TREATMENT) - WE HAVE NOTED YOUR COMMENT ABOUT THE IMPORTANCE OF ASSURING THAT ALL OF THE SAFEGUARDS PROVISIONS AND SPECIAL CONTROLS IN ANY ENSUING U.S. AGREEMENT WITH ISRAEL BE "EXACTLY IDENTICAL" TO THE EGYPTIAN TEXT. OUR COMMENTS ON THIS QUESTION WERE REFLECTED IN OUR RESPONSE TO THE THIRD EGYPTIAN NOTE.

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18. POINTS RELATED TO THE TEXT OF THE AGREEMENT ITSELF:

POINT 1: (PAGE 5 OF ANNOTATED FOURTH EGYPT NOTE)

VIII C: (A) WE BELIEVE THAT THERE IS NOW A CLEAR UNDERSTANDING CONCERNING THE EFFECT OF THE ADDITION OF THE PHRASE "SOURCE MATERIALS" TO ARTICLE VIII C. FOR THE REASONS SET FORTH IN OUR RESPONSE TO THE SECOND EGYPTIAN

NOTE THE U.S. BELIEVES THAT IT IS CLEAR THAT SOURCE MATERIAL PRODUCED IN EGYPT BY A JOINT VENTURE INVOLVING U.S. COMPANIES DOES NOT SOLELY BY VIRTUE OF THAT INVOLVEMENT COME WITHIN THE SCOPE OF THE AGREEMENT NOR, THEREFORE, THE SCOPE OF ARTICLE VIII C. ACCORDINGLY, FOR THE REASONS THAT WE HAVE INDICATED EARLIER WE DO NOT BELIEVE THAT ANY REVISION IN THE TEXT IS REQUIRED; (B) WE BELIEVE THE VIEWS OF THE UNITED STATES AS THEY APPLY TO YOUR POINT 1 (B) ALREADY HAVE BEEN FULLY REFLECTED IN THE TEXT OF THE ACCOMPANYING NOTE. AS NOTED IN IMPLEMENTING THE FIFTH PARAGRAPH OF THAT NOTE, THE U.S. WILL BE GUIDED BY CONSIDERATIONS OF AN INTERNATIONAL SECURITY AND SAFEGUARD CHARACTER AND WILL NOT SEEK TO GAIN ANY COMMERCIAL ADVANTAGE.

19. POINT 2: AS ALREADY NOTED, THE UNITED STATES APPRECIATES THE IMPORTANCE THAT EGYPT ASCRIBES TO BEING ABLE TO RECYCLE THE PLUTONIUM PRODUCED IN THE SUBJECT REACTOR SHOULD THIS PROVE ECONOMICALLY DESIRABLE. WE ARE HOPEFUL THAT YOU IN TURN APPRECIATE OUR CONCERN THAT POTENTIAL ECONOMIC DEVELOPMENTS IN THE REGION MAY HAVE TO BE QUALIFIED BY OVERRIDING FACTORS OF A SECURITY NATURE. ACCORDINGLY, WE BELIEVE THAT WE ALREADY HAVE COMMENTED FULLY ON THIS POINT IN OUR RESPONSE TO THE SECOND EGYPTIAN NOTE AND WE HAVE LITTLE TO ADD AT THIS TIME. THE UNITED STATES HOPES THAT THE EGYPTIAN CONCERNS ABOUT THE POSSIBLE NEGATIVE CHARACTER OF THE TEXT IN ARTICLE VIII F (PHYSICAL SECURITY) HAVE NOW BEEN ADEQUATELY MET BY OUR NEW PROPOSALS OUTLINED ABOVE.

20. POINT 4 CONCERNING ARTICLE IX: THE PROPOSAL FOR THE USE OF A 1200 MWE FIGURE IS ACCEPTABLE TO THE UNITED STATES.

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STATES.

21. POINT 5 CONCERNING ARTICLE X: THE SUGGESTED REVISION PROPOSED BY EGYPT IS ACCEPTABLE TO THE U.S.

22. POINT 6 CONCERNING ARTICLE XI, PARA. C: THE COMMENTS

BY THE EGYPTIAN SIDE, OF COURSE, ADDRESS A BASIC POLITICAL
POINT WHICH IS THE SUBJECT OF SEPARATEDISCUSSIONS
BETWEEN OUR GOVERNMENTS.

23. POINT 7 CONCERNING ARTICLE XII, PARA. A: THE COMMENTS
BY THE EGYPTIAN SIDE HAVE BEEN NOTED. THE UNITED STATES
RECALLS IN THIS REGARD ITS STATEMENTIN THE RESPONSE TO
THE FIRST EGYPTIAN NOTE.

24. POINT 8 CONCERNING ARTICLE XIII: THE UNITED STATES

CONTINUES TO BE AGREEABLE TO HAVING THE PROPOSED TERM
FOR THE AGREEMENT FOR COOPERATION TO EXTEND FOR 40 YEARS
FROM THE DATE ON WHICH THE AGREEMENT ENTERS INTO FORCE."
END TEXT.

25. IN TRANSMITTING THE ABOVE TEXT TO THE GOE, PLEASE
INFORM THE EGYPTIANS THAT THE POINTS IN EFFAT'S LETTER
ARE COVERED BY THIS RESPONSE TO THEIR FOURTH NOTE. INGERSOLL

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